



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4316 OF 2024

PETITIONER :

Smt. Savita D/o Vasantao Khadse After marriage Savita W/o Bhagwan Tale, Aged about : 45 years, Occu: Service, R/o. Flat No.104, Lotus - IV, Prabha City, Manmode Layout, Sumit Nagar, Zingabai Takali, Nagpur – 440030.
Mobile no. 8208029695/8208528987

-Versus-

RESPONDENTS :

1. Central Government of India, Through Secretary & Director General, Ministry of Environment, Forest & Climate Change, Paryawaran Bhawan, New Delhi-110030.
2. Secretary, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi-110 016.
3. Director General, Forest Survey of India, Koulagarh Road, Deharadun, Uttarakhand -248003.
4. Regional Director, Central Zone, Forest Survey of India, CGO Complex, Seminary Hills, Beside TV Tower, Nagpur – 440006.
5. Assistant Director/Drawing and Disbursing Officer, Central Zone, Forest Survey of India, CGO Complex, Seminary Hills, Beside TV Tower, Nagpur – 440006.

6. Deputy Director, Forest Geo-informatics Division, Forest Survey of India, P.O.- I.P.E., Kaulagarh Road, Dehradun-248195.

Mrs. S.W.Deshpande, Advocate for the petitioner.
Mr.C.J.Dhumne, Advocate for the respondents.

**CORAM: SMT. M. S. JAWALKAR &
PRAVIN S. PATIL, JJ.**

**CLOSED ON : 8TH AUGUST, 2025
PRONOUNCED ON : 4TH SEPTEMBER, 2025**

J U D G M E N T (Per : Smt. M. S. Jawalkar, J.)

Heard the learned counsel for the parties.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

3. The petitioner, who aggrieved by non-regularization and repeated contractual extensions to her services, despite being duly selected through interview on 26/06/2007 as Technical Associate (GIS & DIP) in the office of respondent No.4-Regional Director, Central Zone, Forest Survey of India, Nagpur, has filed the present petition.

4. The petitioner holds M.Sc. (Physics) and B.Ed. Degrees, with specialized training in Remote Sensing and GIS from NRSA, Hyderabad and RRSSC, Nagpur, and has expertise in satellite data

processing, image classification, digitization, and GIS software.

5. After due advertisement, she was selected and joined on 26/06/2007 and she had been assigned the duties including forest cover mapping for multiple States.

6. It is further submitted that she has rendered uninterrupted service for 17 years, promoted to Senior Technical Associate in 2020, performing identical duties to permanent employees who have been regularized, while she remains contractual.

7. In May 2024, she was informed of discontinuation due to shifting of work to Dehradun HQ, and termination order dated 28/05/2024 (w.e.f. 01/07/2024) was issued. She challenged this in Writ Petition No.3636 of 2024, where the High Court stayed the termination and allowed her to continue. She now seeks regularization, relying on her long tenure, identical work to permanent staff, and continuing requirement.

8. Despite vacant posts at Nagpur, her services were kept on contractual basis at ₹49,650/-, while permanent staff earned ₹90,000 with benefits. The respondents have not explained how her services were continued for 17 years if temporary. She was appointed through due process and meets recruitment norms.

9. The learned counsel for the petitioner relied on the following citations:-

- (i) **Somesh Thapliyal & Anr. Etc. V/s. Vice Chancellor, H.N.B. Garhwal University and Anr. ((2021) 10 SCC 116).**
- (ii) **Jaggo V/s. Union of India and ors. (2024 SCC OnLine SC 3826).**
- (iii) **Vinod Kumar & Ors. etc. v. Union of India & Ors. [2024] 1 S.C.R. 1230**

10. *Per contra*, the respondents contended that, the petitioner was engaged on purely contractual basis in 2007 for FCM work in Nagpur, periodically extended until July 2024. FCM was later centralized at Dehradun due to technology change, and contractual staff were asked to shift or face termination. She challenged the termination, obtained stay, and subsequently joined HQ at Dehradun.

11. The FSI clarified that her role was temporary, not against the permanent vacancy and permanent staff were recruited through Staff Selection Commission with different qualifications/duties; and no permanent post of Technical Associate exists. Reliance is placed on **Vinod Kumar and Ors.Etc. v. Union of India & Ors. (*supra*)**, where regularization was allowed only when work was against permanent sanctioned posts. It is held by Hon'ble Apex Court as under:

“The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement.”

12. It is further contended that petitioner’s certificates were routine. Termination was due to centralization of FCM operations and not on performance.

13. It is further submitted by the respondents that she is now working as Senior Technical Associate at HQ on contractual basis. Qualification for contractual Technical Associate differs from permanent Junior Technical Assistant, hence parity claim is untenable. No Rules exist for contractual employees, nor is there any provision for creating such permanent post.

14. The learned counsel for the respondents relied on the following citations:-

- (i) **Commissioner of Income Tax and ors. V/s. Chhabil Dass Agarwal {(2014) 1 SCC 603}.**
- (ii) **Secretary, State of Karnataka and ors. V/s. Umadevi (3) and ors. {(2006) 4 SCC 1}.**

15. We have heard the learned counsel for both the parties at length, perused the documents placed on record and considered the

citations relied on by both the parties.

16. It is contention of the petitioner that she is serving in the respondents-Department since many years on contractual basis. She came to be appointed as Technical Associate and she is performing the similar duty of Junior Technical Assistant and only difference is in wages. The learned counsel for the petitioner relied on the judgment in **Jaggo v. Union of India** (*supra*) wherein the Hon'ble Apex Court held in para-20 as under:

“20. It is well established that the decision in **Uma Devi** (*supra*) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in **Vinod Kumar and Ors. Etc. Vs. Union of India & Ors.**⁵, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The

relevant paras of this judgment have been reproduced below:

“6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgment in the case Uma Devi (supra) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...”

5.[2024] 1 S.C.R. 1230

17. However, the learned counsel for the respondents drew our attention to para-26 of the above judgment in **Jaggo v. Union of India** (*supra*). It is pointed out even in view of this judgment also, only those contractual persons can be regularized if there is duly sanctioned

post and the person concerned as served continuously for more than twenty years on that post.

18. In the citation relied on **Jaggo v. Union of India** (*supra*), it was observed by the Hon'ble Apex Court in para-22 as under:

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations. ”

19. So to get the benefit of regularization, there has to be similar responsibilities, educational qualification associated with sanction post ought to be there. The learned counsel for the respondents pointed out that difference between Technical Associate/Senior Technical Associate and Junior Technical Assistant/Senior Technical Assistant, which reads as under:.

Technical Associate/ Senior technical Associate (Contractual and Temporary in nature)	Junior Technical Assistant/ Senior Technical Assistants (Permanent and Regular in nature)
- Engaged through local advertisement for some specific work (Forest Cover Mapping) on contractual basis, not against the sanctioned/vacant posts. - Has no Recruitment Rules. - EQ: Degree/Diploma in Remote Sensing and /or GIS Application. - Present Wages: Rs.42,000/- (fixed and decided by the Headquarter) + HRA (20%), under Head Wages, Dearness Allowance (DA), Leave Travel Concession (LTC), Children Education Allowance (CEA) and Transport Allowance not admissible. - Wages details calculated manually.	- Recruited through Staff Selection Commission for survey work (National Forest Inventory) against the sanctioned/vacant posts. - Has Recruitment Rules, approved by DoPT. - EQ: Certificate in Forest Rangers Course from any recognized institute/ Graduate in Science/Computer Science. - Has regular Pay Scales and decided by the Central Pay Commission. Present Pay Scale : As per 7th CPC, Pay matrix-Level-6 (Rs.35,400 – 1,12,400), under Head Salary and Allowances. i.e. Basic Pay, Dearness Allowance, HRA and Transport Allowance. Leave Travel Concession (LTC), Children Education Allowance (CEA) admissible. - Pay details generated through Public Financial Management System (PFMS).

20. It is submitted that the job of Technical Associate is on contractual basis and they did not require to go to the dense forest. Whereas, Junior Technical Assistant/Senior Technical Assistant are required to stay in dense forest and recruited by the Recruitment Rules. It is also contention of the respondents that the petitioner accepted the position of Technical Associate and requested to extend the period, which was expired for further requisite period. From pay

scale also, it appears that the petitioner getting fixed amount. There is no salary as such given to the petitioner. On perusal of the pay slip, it can also be seen that there is no parity in pay and allowances.

21. The learned counsel for the petitioner relied on the judgment in **Vinod Kumar and Ors. Etc. v. Union of India & Ors.** (*supra*) wherein the Hon'ble Apex Court held in para-6 and 7 as under:

“6. The application of the judgment in *Uma Devi* (*supra*) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of *Uma Devi* (*supra*).

7. The judgment in the case *Uma Devi* (*supra*) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case. Paragraph 53 of the **Uma Devi** (*supra*) case is reproduced hereunder:

“53. One aspect needs to be clarified. There may

be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [(1967) 1 SCR 128 : AIR 1967 SC 1071] , R.N. Nanjundappa [(1972) 1 SCC 409 : (1972) 2 SCR 799] and B.N. Nagarajan [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly **sanctioned vacant posts** might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those **vacant sanctioned posts** that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

22. In the said matter also, the petitioners were working on the post of Accounts Clerk, which were sanctioned posts. However, their

appointments were on temporary basis. Therefore, for claiming regularization, there has to be sanctioned post available for such regularization. It appears that there is formal interview while appointment of the petitioner. There is difference in required educational qualifications i.e. for Technical Associate and Junior Technical Assistant. The selection of Junior Technical Assistant is through Staff Selection Commission against the sanctioned post, whereas selection of Technical Associate is on contractual basis and not against the sanctioned/vacant post. The appointment of Junior Technical Assistant was to be on the basis of Recruitment Rules by DoPT. The Junior Technical Assistants are having facilities and allowances like leave travel concession, children education allowance, transport allowance, however, it is not applicable in respect of Technical Associates. There is difference in work of both the position and post. It appears that the petitioner applied for extension from time to time, which was duly granted. Also there is break in service. Admittedly, there is no sanctioned post of Technical Associate, which is purely contractual and temporary in nature.

23. The learned counsel for the respondents also submitted that the petitioner has alternate remedy before the Central Administrative Tribunal. He relied on the judgment in **Commissioner of Income Tax**

v. Chhabil Dass Agarwal (*supra*), wherein the Hon'ble Apex court held in para-11 as under:

“11. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under Article 226. (See *State of U.P. v. Mohd. Nooh*², *Titaghur Paper Mills Co. Ltd. v. State of Orissa*³, *Harbanslal Sahnia v. Indian Oil Corpn.Ltd.*⁴ and *State of H.P. v. Gujarat Ambuja Cement Ltd.*⁵). ”

2. AIR 1958 SC 86

3. (1983) 2 SCC 433 : 1983 SCC (Tax) 131

4. (2003) 2 SCC 107

5. (2005) 6 SCC 499)

However, this ground was not raised at first instance by the respondent. By consent, matter was taken up for final hearing at the stage of admission. Hence, after extensively heard the matter, we feel it proper to entertain the petition.

24. The learned counsel for the respondents relied on the judgment of Five Judges Constitution Bench in **Secretary of Karnataka and others v. Uma Devi and others** (*supra*), wherein the Hon'ble Constitution Bench held in para 13 as under:

“13. What is sought to be pitted against this approach, is the so called equity arising out of giving of temporary employment or engagement on daily wages and the continuance of such persons in the engaged work for a certain length of time. Such considerations can have only a limited role to play, when every qualified citizen has a right to apply for appointment, the adoption of the concept of rule of law and the scheme of the Constitution for appointment to posts. It cannot also be forgotten that it is not the role of courts to ignore, encourage or approve appointments made or engagements given outside the constitutional scheme. In effect, orders based on such sentiments or approach would result in perpetuating illegalities and in the jettisoning of the scheme of public employment adopted by us while adopting the Constitution. The approving of such acts also results in depriving many of their opportunity to compete for public employment. We have, therefore, to consider the question objectively and based on the constitutional and statutory provisions. In this context, we have also to bear in mind the exposition of law by a Constitution Bench in *State of Punjab v. Jagdip Singh*. It was held therein : (SCR pp. 971-72)

"In our opinion, where a government servant has no right to a post or to a particular status, though an authority under the Government acting beyond its competence had purported to give that person a status which it was not entitled to give, he will not in law be deemed to have been validly appointed to the post or given the particular status."

25. Thus, it can be seen that the petitioner herself accepted the position of Technical Associate on contract basis. It also reveals that

there is no similarity in the work performed by the Technical Associate with the Junior Technical Assistant. Their selection process is also different. The Junior Technical Assistant on permanent post selected through Staff Selection Commission and specific Rules for Recruitment are there. There are no such Rules in respect of the contractual position held by the petitioner. There is difference in educational qualifications of petitioner's position and Junior Technical Assistant. There is difference in wages also. There are additional facilities and allowance for the post of Junior Technical Assistant, whereas there are no such allowances or facilities to the Technical Associate. Thus, claim for regularization can't be considered in absence of sanctioned post of Technical Associate which is purely a contractual post. Thus, the petition is devoid of any merit and the same is dismissed.

26. In view of above, Rules stands discharged. No costs.

(PRAVIN S. PATIL, J)

(SMT.M. S. JAWALKAR, J)